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# Message Text

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TO AMEMBASSY KINGSTON

C O N F I D E N T I A L STATE 075929

E.O. 11652: GDS
TAGS: EINV, EMIN, JM
SUBJECT: BAUXITE: GOJ TREATMENT OF INCOME TAXES

1. CHAPMAN ROSE AND DAVID ACHESON, REPRESENTING ALCOA AND REYNOLDS, MET WITH ASSISTANT SECRETARY ENDERS MARCH 25 TO EXPLORE WAYS IN WHICH THE TWO COMPANIES MIGHT DEAL WITH THE NEED TO PAY FINAL 1974 JAMAICAN INCOME TAXES AND PRODUCTION LEVIES AND HOW THE USG MIGHT ASSIST. ALCOA AND REYNOLDS WISH TO USE INCOME TAX PAYMENTS AS CREDITS AGAINST THE PRODUCTION LEVY. INCOME TAXES FOR 1974 WERE DUE MARCH 31 AND FINAL PAYMENT OF THE 1974 PRODUCTION LEVY WILL BE PAY-ABLE APPROXIMATELY IN LATE JUNE; DETAILS OF THE PAYMENT PROCEDURE HAVE BEEN POUCHED TO YOU.

2. THE DISCUSSION MADE CLEAR THAT PROCEDURES ARE AVAILABLE FOR THE TWO COMPANIES TO PURSUE THE MATTER UNDER JAMAICAN LAW. ROSE SAID THAT THE COMPANIES INTENDED TO PAY THE INCOMETAX AND APPLY FOR CREDIT AGAINST THE 1974PRODUCTION LEVY;-THYS WOULD INVOLVE DOLS 8.5 MILLION FOR REYNOLDS. ALTHOUGH THERE IS NO HARD EVIDENCE, THE COMPANIES EXPECT FINANCE MINISTER COORE TO DENY THE APPLICATION FOR CREDIT.
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IF SO, REYNOLDS WILL DEFINITELY PAY THE PRODUCTION LEVY TO

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AVOID PENALTIES AGAINST ITS JAMAICAN STAFF AND APPEAL AS PROVIDED IN THE PRODUCTION LEVY ACT. ROSE INDICATED THAT, WHILE ALCOA WILL PROBABLY DO THE SAME, THERE IS SOME TALK

OF SHUTTING DOWN.

3. ROSE RAISED THE POSSIBILITY OF USG REPRESENTATIONS TO ARGUE FOR EQUAL TAX TREATMENT OF ALL U.S. COMPANIES. THE CASE THAT ROSE SUGGESTED WE ARGUE IS THAT THE GOJ HAS IN FACT GRANTED THE TAX CREDIT TO KAISER FOR 1974, ALTHOUGH BAUXITE NEGOTIATIONS ARE STILL IN PROGRESS AND ARE NOT GUARANTEED TO END IN A FINAL AGREEMENT. THUS THE GOJ HAS NOT MADE THE TAX CREDIT TO KAISER CONDITIONAL UPON AN OVERALL BAUXITE SETTLEMENT AND SHOULD GRANT THE SAME TREATMENT TO OTHER COMPANIES. FURTHERMORE, THE LEGISLA-TIVE HISTORY INDICATES GOJ INTENT TO ALLOW THE INCOME TAX AS A PRODUCTION LEVY CREDIT. (A PAPER SETTING FORTH THESE ARGUMENTS HAS BEEN POUCHED TO YOU.) ROSE INDICATED THAT KAISER HAD BEEN CONSULTED AND DID NOT OBJECT TO SUCH USG REPRESENTATIONS.

4. THE PROVISION OF THE PRODUCTION LEVY ACT THAT PERMITS SUCH A TAX CREDIT DOES NOT IN ITSELF PROVIDE A BASIS FOR ARGUING EQUAL TREATMENT OF COMPANIES, AS ROSE ACKNOWLEDGED. SECTION 6 OF THE ACT PERMITS THE FINANCE MINISTER TO "WAIVE, REMIT OR REFUND" ANY PART OF THE LEVY "SUBJECT TO SUCH CONDITIONS AS THE MINISTER MAY SEE FIT TO IMPOSE."

5. ASST SECRETARY ENDERS SAID THAT COORE WOULD PROBABLY DENY THE COMPANIES' APPLICATION FOR TAX CREDIT, WHETHER TE USG MADE REPRESENTATIONS OR NOT. ROSE ADMITTED THAT WAS MOST LIKELY. OBSERVING THAT THE LONG TERM SOLUTION, IS INVESTMENT IN ALTERNATIVE SOURCES, ENDERS ASKED FOR AN UPDATE ON INDUSTRY PLANS FOR JOINT VENTURES IN THE U.S. ROSE REPLIED THAT ENTHUSIASM HAS DROPPED OFF IN RECENT MONTHS. THIS REFLECTS IN PART THE RECESSION AND A SCALING DOWN OF NEAR TERM INVESTMENT PLANS, BUT ALSO IN PART A JUDGMENT AS TO LONG RUN COSTS. EACH COMPANY PLANS TO PURSUE ITS OWN TECHNOLOGY. THE ANACONDA GEORGIA CLAY PROCESS IS CLOSEST TO FRUITION, ROSE SAID, BUT ALCOA IS CONFIDENTIAL

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LOSING INTEREST DUE TO COST. THE NATIONAL-SOUTHWIRE ALUNITE PROCESS IS STILL PROMISING BECAUSE OF BY-PRODUCTS.

6. ASKED WHETHER THE COMPANIES HAVE AN INTEREST IN BAUXITE SETTLEMENT, ROSE REPLIED THAT KAISER DOES, BUT REYNOLDS MAY WISH TO WAIT. IN A FORMAL SENSE, IT IS UP TO REYNOLDS TO REOPEN SUSPENDED NEGOTIATIONS BY RESPONDING TO THE GOJ DEMAND FOR INVESTMENT IN AN EXPORT ALUMINA FACILI-

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TY. ROSE INDICATED THAT ALCOA HAS NOT YET DECIDED WHERE
ITS BEST INTERESTS LIE.

7. THE MEETING REACHED NO CONCLUSION ON THE USEFULNESS OF
REPRESENTATIONS. WE PROMISED TO LOOK FURTHER AT THE
DOCUMENTS LEFT BY ROSE TO SEE WHAT MIGHT BE DONE. OUR
VIEW IS THAT AS LONG AS TAX TREATMENT IS STILL UNDER
NEGOTIATION AS ONE OF MANY ISSUES, THERE IS NO BASIS
FOR US TO CLAIM THAT THE GOJ IS TREATING THE COMPANIES
DIFFERENTLY. WE INVITE ANY COMMENTS YOU MAY HAVE. INGERSOLL

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